

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3095 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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DIVISIONAL CONTROLLER

Versus

SHIVGAR P GOSWAMI

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Appearance:

MR HC RAVAL for Petitioner

MRS DT SHAH for Respondent No. 1

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CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 11/10/1999

ORAL JUDGEMENT

Learned Advocate Mr.Raval is appearing for the  
petitioner. Ms.Shah is appearing for the respondent  
workman.

The facts of the present case in short are that  
the respondent was working with the petitioner as

Conductor from 2.11.1981 and his service was terminated from 26.7.85 on the basis of the charge that on 4.4.85 while he was on route from Bhangor to Lalpur, his bus was checked by the checking staff and it was found that he had recovered fare of Rs.10/- from two passengers but had not issued tickets to those passengers. At that time, the respondent was working as Badli Conductor and therefore, show-cause notice was issued to the respondent for the said misconduct which was replied by the workman and thereafter, without holding any departmental inquiry and without giving any opportunity to defend the service of the respondent workman was terminated by the petitioner Corporation. Said action of the Corporation was challenged by the workman before the Labour Court by filing Reference No.849 of 1987.

The Labour Court, Rajkot came to the conclusion that the termination of the respondent workman was based on the misconduct of non-issuance of tickets to some passengers. The Labour Court therefore held that in view of the charge of non-issuance of tickets, the petitioner Corporation should have initiated departmental inquiry against the workman and the petitioner Corporation should have given reasonable opportunity to defend to the workman. Since no opportunity was given and since no departmental inquiry was held against the respondent workman, on the ground of violation of principles of natural justice, the Labour Court allowed the said reference by directing the petitioner Corporation to reinstate the workman without back wages under its impugned award dated 1.9.1989. The said award has been challenged by the petitioner Corporation before this Court by filing the present petition under Article 226 and 227 of the Constitution of India.

I have heard the Learned Advocates for the parties. Mr.Raval has submitted that the respondent was working as Badli Conductor and therefore the Corporation was not obliged to initiate the departmental inquiry against the workman.

As per the decision reported in 1993 (1) GLR 442, even in case of Badli workman, if he has committed some misconduct then before terminating or dismissing the workman from service departmental inquiry is necessary. Therefore, the aforesaid submission made by Mr.Raval is not in conformity with the decision of this Court reported in 1993(1) GLR Pg.442. The view taken by the Labour Court is in conformity with the aforesaid decision of this Court. Mr.Raval has not been able to point out any infirmity in the impugned award. No other submission

has been made. Therefore, petition requires dismissal.  
Accordingly, this petition is dismissed. Rule is  
discharged. There shall be no orders as to costs.

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